

Service Date: March 26, 1993

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application)	UTILITY DIVISION
of LONE MOUNTAIN SPRINGS for)	
Authority to Increase Rates and)	DOCKET NO. 92.9.55
Charges for Water Service to Its)	
Big Sky, Montana Customers,)	ORDER NO 5660b

PROCEDURAL ORDER

Under the authority of ARM 382.2702, and following issuance of a proposed procedural order, the Montana Public Service Commission (Commission) enters this order setting forth the procedure to be followed in Docket No. 92.9.55.

1. On September 30, 1992 Lone Mountain Springs (Applicant or LMS) filed an application for authority to permanently increase water rates for its Big Sky, Montana customers. On February 9, 1993 LMS filed an amended application. For purposes of computing the nine-month deadline established by Section 69-3- 302, MCA, the application will be considered filed February 9, 1993.

2. In this Order the term 'parties' includes the Applicant and all intervenors, Individuals or entities are not parties unless they have been granted intervention by the Commission.

3. Copies of all pleadings, motions, discovery requests, prefiled testimony and briefs shall be filed with the Commission and served on all parties Parties shall file an original and ten copies with the Commission of motions, testimony, briefs, and documents directed to the Commission, Service upon the parties shall be upon the parties' attorney of record, if applicable, and such other individuals as may be reasonably designated by the attorney of records

4. All dates listed in the following schedule are mailing dates. Parties must mail all material by the most expeditious method available at reasonable cost. Parties should be considerate of the obligations imposed upon other parties by the following schedule. Parties may

make arrangements among themselves for the use of express mail

Schedule

5. Unless modified, the following schedule shall apply in Docket No 92.9 .55:

(a) April 9, 1993: Final day for written discovery directed to LMS,

(b) April 23, 1993: Final day for completion and service by LMS of all answers and responses to written discovery.

(c) May 14, 1993: Final day for completion of the prepared testimony and exhibits of all parties except LMS.

(d) June 4, 1993: Final day for written discovery directed to parties by LMS; final day for intervenor discovery to other intervenors.

(e) June 18, 1993: Final day for completion of answers by parties to written discovery made pursuant to subparagraph (d).

(f) July 2, 1993: Final day for service of rebuttal testimony by LMS and testimony of other parties which is in rebuttal to testimony filed pursuant to subparagraph (c).

(g) July 20, 1993: Final day for written discovery directed to parties that filed rebuttal testimony pursuant to subparagraph (f) ; such discovery must be directly related to the rebuttal testimony.

(h) August 3, 1993: Final day for completion of answers by all parties to discovery made pursuant to subparagraph (g).

(i) August 13, 1993: Final day to provide the Commission and parties with a prehearing memorandum, The memorandum should include a witness list and a list identifying specific data requests or other discovery to be introduced at hearing. The memorandum should also identify any issues or motions to be addressed before commencement of the hearing.

(j) August 25, 1993: Opening day of hearing in Docket No. 92.9.55.

Intervention

6. By the “Notice of Application and Intervention Deadline” (service date: October 26, 1992) , the deadline for filing a petition to intervene was November 13, 1992. Any person

seeking late intervention must file a Petition to Intervene with the Commission The petition shall (a) set forth the position that the petitioner will take if intervention is granted; (b) demonstrate that the petitioner has an interest in and is directly affected by this Docket; (c) demonstrate that the intervention, if granted, will not delay or prejudice the proceeding; and (d) show good cause why the petition was not timely filed.

Discovery

7. The term “discovery” as used in this order includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as informal “data requests. The Commission urges parties to conduct their discovery as much as possible through the use of data requests.

8. Data requests must be numbered consecutively throughout this Docket, beginning with the number one “1” for each party (e.g., MW-1; PSC-1; MCC-1). All data requests must include at the beginning of each request a short description (approximately five words or less) explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit no., page no., etc., may be included in addition to, but not in lieu of, the subject of the requests. Each party should attempt to keep descriptions consistent from One request to another.

9. Multi-part requests may be used. Each part of a multi—part request should be denoted by a lower case letter (a, b, c, d and e.) . Requests should be limited to five parts (a-e) without any sub-parts. If additional parts are necessary, additional requests should be made. A single part request should be denoted by the request number only.

10. Examples of acceptable requests follow:

Acceptable Data Request Format

PSC-500	RE: Late Payment Charges
	Witness - Doe, Page JQD-4, Lines 13-15W
	Please explain the accounting treatment for late payment charges
PSC-501	RE: Storage Facilities

Witness - Roe, Page JAR-14, Lines 11-14.

- a. Provide a list identifying each storage facility serving Big Sky, Montana customers.
- b. Identify for each such facility all the costs associated with installation and how much of that plant is included in rate base.
- c. Identify for each such facility the number of customers served.

11. Written discovery and data requests will be served on all parties. Here, the term “parties” includes the parties, their attorneys, and witnesses testifying on matters to which the answers relate. The Commission encourages all parties to scrutinize the material provided in this Docket before submitting data requests to limit unnecessary requests. The Commission further encourages parties to discuss preferred format for data requests and responses, consistent with paragraphs 10 and 11 of this Order.

12. Parties have five (5) days from receipt of written discovery or data requests, or until a response is due, whichever is less, to file objections to the request(s). Notice of objection shall be served upon the Commission and all parties of record. The Commission may dispose of such objections by prompt ruling or may schedule argument on the objections. Failure to object promptly will be deemed acceptance of the requests. Parties are encouraged to try to resolve concerns about requests before filing objections.

13. Any requesting party dissatisfied with the response to any written discovery or data request must serve its written objection(s) simultaneously upon the Commission and parties within five (5) days after receipt of such response. The Commission may dispose of such objection(s) by prompt ruling or may schedule argument on the objection(s). The Commission will issue its order either sustaining or overruling the objection(s), and set a deadline for satisfactory response(s), if required. Parties are encouraged to try to resolve objections and obtain clarification to responses before resorting to objections before the Commission.

14. The Commission may allow parties to submit written discovery or data requests after their deadlines if good cause is shown for failure or inability to meet the deadline.

15. Unless excused by the Commission, failure by a party to answer data requests or other discovery from any party may result in:

- (a) An order prohibiting the disobedient party from supporting or opposing related claims, or from introducing related matters in evidence;

- (b) An order striking pleadings, testimony or parts, or staying further proceedings until the request is satisfied, or dismissing the action or proceeding or any parts

16. Neither the Commission nor the Commission staff is a party to this proceedings Commission staff has the rights and responsibilities of parties under Commission rule. See ARM 382.601(n).. The Commission directs its staff to make every good faith effort to meet the discovery deadlines imposed on parties in this Order. However, Commission staff has the overriding responsibility to advise the Commission and the duty to ensure that all issues are thoroughly explored on the record. The Commission reserves the right for its staff to conduct discovery beyond the deadlines contained in this Order if issues are not adequately examined Failure or inability to respond to this late discovery may result in a continuance of the scheduled hearing or in the reservation of certain issues for a future proceeding.

Testimony and Evidence

17. All proposed exhibits and prefiled written testimony shall be marked for identification before the hearing as arranged in advance with the court reporter.

18. At the hearing, prefiled direct, answer and rebuttal testimony will be adopted into the record, eliminating the need to retype prepared testimony into the transcript.

19. Parties shall make copies available of any documents not previously filed with the Commission which will be used for cross-examination, unless good cause is shown why copies are not available Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each Commissioner, the Commission staff, and all parties This last requirement may be waived if the documents to be introduced are bulky, or for other good cause, upon prior arrangement with the Commission and all parties.

20. By leave of the presiding officer, parties may be permitted to present ‘live’ rebuttal testimony only in direct response to an issue raised for the first time in cross-examination or the testimony of a public witness.

21. The Commission may allow citizens and citizen groups to make statements without submitting prepared written testimony; in addition, if they have prepared written testimony, they may read it or have it adopted directly into the record,

22. The rules of evidence applicable in the District Courts of the State of Montana at the time of the hearing in this Docket will be used at the hearing.

Prehearing Motions and Conferences

23. Motions by any party, including motions to strike prefiled testimony and motions concerning procedural matters shall be raised at the earliest possible time, Prehearing motions shall be submitted on briefs unless otherwise requested by a party. Any party requesting oral argument shall notice it for hearing before the Commission,

24. The Commission may set a final Prehearing Conference to discuss settlement of any issues in the proceeding; simplification of issues; possibility of obtaining admissions of fact and documents; distribution and marking of written testimony and exhibits prior to the hearing; and other procedural matters as may aid in the disposition of the proceeding.

25. Nothing in this Order shall be construed to limit the legally established right of the Commission or its staff to inspect the books and accounts of LMS at any time.

Witness Sequence List

26. LMS shall provide the Commission lists indicating the witness sequence for the hearing in this Docket, which LMS and any other parties to this Docket shall negotiate among them- selves. LMS may inform the Commission and parties of the final sequence in writing or by telephone directed to the parties or their attorneys of record and the Commission staff attorney.

Done and Dated this 22nd day of March, 1993 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

DAVE FISHER, Commissioner

NANCY MCCAFFREE, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Kathlene M Anderson
Commission Secretary
(SEAL)